

CAND 89B (Rev. 1/06) Subpoena to Produce Documents or Objects in a Criminal Case

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES

SUBPOENA TO PRODUCE
DOCUMENTS OR OBJECTS
IN A CRIMINAL CASE

V.

BERNADETTE ESCUE

Case Number: CR-07-00610 JF

TO:

NETWORK APPLIANCE, INC.

YOU ARE COMMANDED to produce at the place, date, and time specified the document(s) or object(s) indicated below. If compliance would be unreasonable or oppressive, you may file a motion requesting the court to quash or modify the subpoena, to review the documents *in camera*, or to permit production only pursuant to a protective order.

PLACE

<input type="checkbox"/> United States Courthouse 450 Golden Gate Avenue San Francisco, CA 94102	<input checked="" type="checkbox"/> United States Courthouse 280 South First Street San Jose, CA 95113	<input type="checkbox"/> United States Courthouse 1301 Clay Street Oakland, CA 94612
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COURTROOM/JUDGE

The Hon. Jeremy
Fogel

If the document(s) or object(s) are produced in advance of the date specified, either to the court in an envelope delivered to the clerk's office or to the issuing attorney whose name and address appears below, no appearance is necessary.

DATE AND TIME

July __, 2008

The following document(s) or object(s) shall be produced:

SEE EXHIBIT A, ATTACHED HERETO.

NOTE: Parties requesting a subpoena requiring the appearance of a witness to testify at a criminal proceeding or to testify and bring documents to a **criminal** proceeding, must use Form CAND 89A, *Subpoena to Testify in a Criminal Case*. Forms are available at the Court's internet site: <http://www.cand.uscourts.gov>.

U.S. MAGISTRATE JUDGE OR CLERK OF COURT

Richard W. Wieking

(By) Deputy Clerk



DATE

ATTORNEY NAME, ADDRESS AND PHONE NUMBER:

Mark R. Vermeulen, Law Office of Mark R. Vermeulen 755 Florida St., San Francisco, CA 94110
415.824.7533

EXHIBIT A

to

Subpoena to Produce Documents or Objects in a Criminal Case,
U.S. v. Bernadette Escue, U.S.D.C. (N.D.Cal – San Jose) No. CR-07-00610 JF)

Instructions

For purposes of compliance with this Subpoena:

1. The records requested herein encompass all documents which are in the possession, custody or control of the subpoenaed party. The documents are to be produced as they are kept in the usual course of business, or organized and labeled to correspond to the numbered paragraphs or categories of particular requests. If there are no documents responsive to a particular numbered paragraph, so state in writing.
2. All records produced from inside the United States are to be accompanied by a certification under Rule 902(11) of the Federal Rules of Evidence, substantially in the form of the certification attached hereto as Exhibit B.
3. All records produced shall be provided in their entirety notwithstanding the fact that portions thereof may contain information not requested. All interim as well as final versions of the document shall be produced, along with all versions or copies that are not identical to the original or other produced copy of the document, whether due to handwritten notations, modifications, changes, amendments, revisions or otherwise, shall be produced and/or otherwise treated as a separate document.
4. The term “all communications” in paragraph 3 below shall include but not be limited to all hard-copy, electronic, and computerized data compilations, and shall include all e-mails (including those stored or archived on any computer, any shared or public network drives, as well as those recoverable from back-up devices).
5. The records are to be produced simultaneously to the Court, and to the Assistant U.S. Attorney Joseph Fazioli, defense counsel Mark Vermeulen, and U.S. Probation Officer Lori Timmons at the following addresses, respectively:

Joseph Fazioli
U.S. Attorney's Office
150 Almaden Blvd., Suite 900
San Jose, CA 95113

Mark Vermeulen
Attorney at Law
755 Florida St. #4
San Francisco, CA 94110-2044

Lori Timmons
U.S. Probation Office
U.S. Courthouse & Federal Bldg.
280 S. First St. - Suite 106
San Jose, CA 95113-3003

Documents to be produced

1. All documents and records that provide support for professional fee charges for the individuals listed below in connection with the request(s) for restitution in this case, including but not limited to timesheets prepared by the listed employees to verify hours billed in invoice number 103109 dated January 29, 2004 and invoice number 102637 dated December 17, 2003:

- a. Richard Pimentel
- b. James Leach
- c. Peter Blessing
- d. Catherine Suer
- e. Dylan Wells

2. A detailed description of the tasks and work performed for the individuals listed above for each separate time entry.

3. All engagement letters and all communications between Network Appliance, Inc. and Huron Consulting Group, including but not limited to details regarding the scope of work to be performed and the rates to be charged.

4. All supporting documentation related to expenses incurred.

EXHIBIT B

CERTIFICATION PURSUANT TO FED. R. EVID. 902(11)
(documents maintained within the United States)

I, _____, am
a _____
[Name] [Title]

of _____. As such, I am a duly authorized custodian
of _____

[Company]
records. I hereby certify that the attached documents, which are:

[Insert general description]

are domestic records that were made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of those matters; that such records were kept in the course of a regularly conducted business activity; that the regularly conducted business activity made such records as a regular practice; and that such records are [originals] [duplicates of originals]. [Strike one]

I declare under penalty of perjury that the foregoing is true and correct.

Dated: _____
[City, State]

[Date]

[Signature]

[Printed name]

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PROOF OF SERVICE

RECEIVED BY SERVER	DATE	PLACE
SERVED	DATE	PLACE
SERVED ON (PRINT NAME)	FEES AND MILEAGE TENDERED TO WITNESS <input type="checkbox"/> YES <input type="checkbox"/> NO AMOUNT \$ _____	
SERVED BY (PRINT NAME)	TITLE	

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on _____
DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

ADDITIONAL INFORMATION